

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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BURLINGTON GRAPHICS SYSTEMS, INC.,

Plaintiff,

v.

Case No. 11-C-0387

RITRAMA, INC.,

Defendant.

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ORDER GRANTING MOTION TO STRIKE SUPPLEMENTAL STATEMENT OF  
PROPOSED MATERIAL FACTS AND DENYING AS MOOT ALTERNATIVE MOTION  
FOR LEAVE TO FILE A RESPONSE (DOC. 50)

In this case, Ritrama, Inc. filed a motion for partial summary judgment, accompanying the motion with a statement of proposed material facts as described in Civil L.R. 56(b)(1)(C). Burlington Graphics Systems, Inc. responded to the motion, filing its response to Ritrama's statement of facts and its own additional proposed facts as described in Civil L.R. 56(b)(2)(B). Thereafter, Ritrama filed its reply to Burlington's additional facts, as permitted by Civil L.R. 56(b)(3)(B), *plus* a "Supplemental Statement of Proposed Material Facts" (Doc. 48). Burlington moves to strike the supplemental statement as not allowed by the local rules.

Ritrama cited Civil L.R. 56(b)(3)(C) as authority for its supplemental statement. (Doc. 48 at 1.) However, Rule 56(b)(3)(C) permits the filing of documentary support, not additional proposed findings of fact, in reply to the materials submitted by the nonmovant. Under the local rules, the summary judgment movant files proposed statements of material

fact, the opposing party responds and files additional proposed statements of material fact, then the movant responds to the latter. The local rules do not provide for another round of proposed facts. See Civil L.R. 56(b)(3).

Ritrama contends that its supplemental statement is merely for the court's convenience and that it only submitted one page of additional evidence in reply.<sup>1</sup> Moreover, says Ritrama, local rules require it to cite in its brief to a numbered statement of facts or statement of additional facts, thus requiring another statement of facts. See Civil L.R. 56(b)(6). Regardless of whether the local rules could be interpreted in such a fashion, the court in this case will not consider another round of proposed statements of fact at this point. The rules committee's and the district court's intent for these procedures was likely to simplify matters so summary judgment motions could be decided more expeditiously. But at some point, when the submission of proposed statements of fact creates more work for the parties and the court, additional or "supplemental" proposed statements must stop. As for Ritrama's suggestion that it can re-file its brief by replacing the cites to the supplemental statement of facts with citations to evidence, this court believes it will be able to trace Ritrama's references without problem. Therefore,

IT IS ORDERED that Burlington's motion to strike the supplemental statement of proposed material facts (Doc. 50) is granted, and the supplemental statement (Doc. 48) will not be considered by the court in deciding the pending motion for partial summary judgment.

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<sup>1</sup>The additional evidence is not challenged; Burlington acknowledges that the evidence submitted in reply was permitted by Civil L.R. 56(b)(3)(C).

IT IS FURTHER ORDERED that Burlington's alternative motion for leave to file a response to the supplemental statement (Doc. 50) is denied as moot.

Dated at Milwaukee, Wisconsin, this 28th day of March, 2014.

BY THE COURT

/s/ C.N. Clevert, Jr.

C.N. CLEVERT, JR.

U.S. DISTRICT JUDGE